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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/171,018	10/07/1998	JOSEPH B VOLPE	6178-9	7540

7590 07/01/2003

Zito tlp  
26005 Ridge Road Suite 203  
Damascus, MD 20872

EXAMINER
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YE, LIN

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 07/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/171,018	<b>Applicant(s)</b> VOLPE, JOSEPH B	
	<b>Examiner</b> Lin Ye	<b>Art Unit</b> 2612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-2,4-5, 13 and 16-30.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 6/2/03 have been fully considered but they are not persuasive as to claims 1-2, 4-5, 13 and 16-30.

Relative to claims 1, 5, 18 and 23-24, the Applicant argues that it would not have been obvious to have more than one trainee being monitored by a single plurality of optical monitor disclosed by Stauff. The examiner disagrees. The Official Notice, presented in the last Office action, paper number 10, concerning obvious to have more than one trainee operating the optical device with camera at a single time is maintained. McClintock U.S. Patent 5,598,208 is cited herein as evidence to support examiner's taking of Official Notice; Figures 9-10, clearly teaches the user remote sites with a display for monitoring various camera perspectives in real time (See Col. 9. lines 55-67). This is well known to one of ordinary skill in the art at the time to see an advantage to monitor more than one optical viewing device in the field at one time so that giving user more flexibility to select desired scenes and compare the various camera perspectives "side-by-side". For this reason, it would have been obvious to the instructors can monitor more than one trainee operating the optical device at a single time from the remote display station disclosed by Stauff.

The applicant also argues the addition of the beam splitter and camera assembly as disclosed in the McClenahan reference would have been neither obvious, nor compatible with the Stauff system; the Stauff reference for the camera to be provided with its own reticle would not be practical because of the confusion that would occur from the resultant view of two reticles being sent to the monitoring station. In response to applicant's arguments about

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secondary reference cannot be bodily incorporated into primary reference, the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art. In *Re Bozek*, 163 USPQ 545, (CCPA 1969); In *re Richamn* 165 USPQ 509, (CCPA 1970); In *re Beckum*, 169 USPQ 47 (CCPA 1971); In *re Sned*, 710 F2d 1544, 218 USPQ 385. The secondary reference, McClenahan clearly sets forth the motivation to use the beam splitter and camera assembly so that camera can be quickly and easily attached to and removed from the optical viewing device in the field and also easy operate and maintain (See Col. 2, lines 8-12). For this reason, it would have been obvious to one of ordinary skill in the art at the time to see the optical viewing device attached with a beam splitter for redirecting image signal to the video camera disclosed by Stauff.

### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lin Ye** whose telephone number is **(703) 305-3250**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R Garber can be reached on (703) 305-4929.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, DC. 20231


Or faxed to:

(703) 872-9314

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive,  
Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Technology Center 2600 Customer Service Office whose telephone  
number is (703) 306-0377.

  
WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Lin Ye  
June 27, 2003